

PCT

To:

see form PCT/ISA/220

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY
(PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/GB2004/004658

International filing date (day/month/year)
03.11.2004

Priority date (day/month/year)
03.11.2003

International Patent Classification (IPC) or both national classification and IPC
G11B20/00, G11B27/32

Applicant
MACROVISION EUROPE LIMITED

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



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Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material:
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing:
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

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Box No. II Priority

1. ☒ The following document has not been furnished:

☒ copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).

☐ translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
3. ☐ It has not been possible to consider the validity of the priority claim because a copy of the priority document was not available to the ISA at the time that the search was conducted (Rule 17.1). This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.
4. Additional observations, if necessary:

Box No. V Reasoned statement under Rule 43bis.1(a)(I) with regard to novelty, Inventive step or Industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-8,11-27
	No: Claims	9,10
Inventive step (IS)	Yes: Claims	24
	No: Claims	1-23,25-27
Industrial applicability (IA)	Yes: Claims	1-27
	No: Claims	

2. Citations and explanations

see separate sheet

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Re Item V

**Reasoned statement with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

1. Reference is made to the following documents:

D1: EP-A-0 507 403

D2: WO 03/034424 A

D3: ECMA: "Volume and File Structure of Read-Only and Write-Once Compact Disk Media for Information Interchange" STANDARD ECMA-168, 2ND EDITION, December 1994 (1994-12), pages 1-128, XP002183920

D4: "Data interchange on read-only 120 mm optical data disks (CD-ROM), second edition" STANDARD ECMA-130, 2ND EDITION, June 1996 (1996-06), XP002143627

2. The present application does not meet the criteria of Art.33(1) PCT, because the subject-matter of independent claim 9 is not new in the sense of Art.33(2) PCT.

2.1 Document **D3** defines a standard for an optical disc (multi-session CD-WO disk: Sect.C.3) carrying content (tracks: Sect.C.3.2) and control data for enabling access to the content (TOC: Sect.C.3.1), the content being arranged on the disc in at least two separate and consecutive sessions (Fig.C.3). The lead-in to a session (see Sect.C.3.1 and the document **D4** referenced therein) comprises information for identifying the format of the session (e.g. q-Mode 1 data fields POINTER and P-SEC, see Sect.22.3.4.2 of document **D3**).

2.2 Claim 9 further requires that said information *"is preset irrespective of the format of the session"*. However, this requirement is a feature of the recording method that has no limiting effect on the claimed optical disc. Indeed the fact that said information is preset without paying attention to the format of the session (*"irrespective of [...]"*), does not exclude the possibility that the format indicated by the preset information nevertheless matches the format of the session.

Therefore the subject-matter of claim 9 is not new.

3. The subject-matter of independent claims 1, 11, 21, 23, and 25 does not involve an inventive step in the sense of Article 33(3) PCT.

3.1 Document **D1** is regarded as being the closest prior art to the subject-matter of claim 1. It discloses (col.7, l.44-col.8, l.38; Fig.4) an optical disc (CD-ROM 20) carrying content (user files F1-F6) and control data for enabling access to the content (volume descriptors VD1, VD2), the content being arranged on the disc in at least two separate and consecutive sessions (information volumes VOL1, VOL2), wherein each session on the disc has a lead-in (LI1, LI2), a program area (PA1, PA2), and a lead-out (LO1, LO2).

The subject-matter of claim 1 differs from what is disclosed in **D1** in that none of the sessions has a pointer from the lead-out which references control data of that same session.

The problem to be solved by the present invention may therefore be regarded as to simplify the format of the optical disc (present application, p.13, ll.17-32).

Document **D1** indeed discloses that a session may have a pointer from the lead-out which references control data of that same session (pointers 60-62 in Fig.6). Said pointers serve the aim of facilitating disc navigation (col.9, ll.27-41). However, **D1** also describes an alternative approach to disc navigation which does not rely on said pointers (col.9, ll.20-26). The description of this alternative approach is a clear indication that said pointers are purely optional. The person skilled in the art, when facing the technical problem stated above, would thus discard said pointers, and would arrive at the subject-matter of claim 1 without any inventive skill.

Therefore the subject-matter of claim 1 does not involve an inventive step.

3.2 The subject-matter of independent claim 11 is not inventive, either.

Document **D1** is again regarded as being the closest prior art. The disc defined in claim 11 differs from the one disclosed in **D1** in that

- (a) none of the sessions has a pointer from the lead-out which references control data of that same session,
- (b) the disc is a copy protected audio disc which has a first audio session and at least one subsequent data session, the first audio session containing audio data in its program area, and
- (c) control data in the second and subsequent sessions which relates to the first session has been removed, corrupted, rendered incorrect or inaccurate, or otherwise interfered with.

Claim 11 can therefore be regarded as addressing the following two-part problem:

- (d) to simplify the format of the optical disc (see the present application on p.13, ll.17-32), and
- (e) to copy protect the disc in the sense that an audio player will be able to play audio data stored on the disc (p.15, ll.16-26), whereas a CD-ROM drive will not be able to play said audio data (p.15, ll.28-30).

As outlined above, the person skilled in the art would follow the teaching of document **D1** to solve problem (d) by adding feature (a). Therefore the additional subject-matter of feature (a) is not inventive.

In order to solve problem (e), the person skilled in the art would search for documents about the copy protection of optical discs. The person skilled in the art would find document **D2**, which discloses a multi-session disc (Figs.7-10) with features (b) and (c), see p.13, ll.23-32, and p.5, ll.20-25, respectively. The person skilled in the art would combine documents **D1** and **D2**, thereby arriving at the subject-matter of claim 11 without any inventive skill.

Therefore the subject-matter of claim 11 does not involve an inventive step.

3.3 Independent claim 21 mirrors the features of claim 1 in terms of a recording method. Hence its subject-matter is not inventive either, *mutatis mutandis*.

3.4 The subject-matter of independent claim 23 is not inventive, either.

Document **D2** is regarded as describing the closest prior art. It discloses a method of recording content and control data onto an optical disc, the method comprising the steps of arranging the content on the disc in at least two separate and consecutive sessions, where each session has a lead-in, a program area, and a lead out (p.13, l.10 - p.16, l.32; Figs.7-10). The first session of the disc contains audio data, which is protected against being read by a data reader (p.13, ll.23-25).

The recording method defined in claim 23 differs from the one disclosed in **D2** in that information in the lead-in to a session used to identify the format of the session is preset irrespective of the format of the session.

The problem to be solved by claim 23 can be considered as to take further measures for protecting said audio data against being read by a data reader.

Document **D2** discloses such further measures. Information in the lead-in to a session used to identify the format of the session (TOC data field "Type" for identifying the format as either "AUDIO" or "DATA": Figs.6A, 6B) is preset irrespective of the format of the session (p.12, l.36 - p.13, l.8; Fig.6B). In order to solve the problem stated above, the person skilled in the art would implement this further measure, thereby arriving at the subject-matter of claim 23 without any inventive skill.

Therefore the subject-matter of claim 23 does not involve an inventive step.

- 3.5 The steps that define the subject-matter of independent claim 25 (recording method) correspond to a subset of the features listed in claim 11 (the missing features appear to be supplemented by dependent claim 26). Hence the subject-matter of independent claim 25 is not inventive either, *mutatis mutandis*.
4. Dependent claims 2-8, 12-20, 22, 24, and 27 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty or inventive step, see documents **D1-D4** and the corresponding passages cited in the search report.
5. The combination of the features of dependent claim 24 appears to be neither known

from, nor rendered obvious by, the available prior art, because the search has not revealed any prior art document disclosing a recording method which sets the Q-data variables POINT and Psec to the values specified in claim 24 irrespective of the format of the session.